

Applicant: Thomas P. Miltich  
Serial No. 10/618,467  
Page 6

### REMARKS

Claims 1-20 pending with claims 21-27 withdrawn from consideration (and herewith canceled without prejudice or disclaimer as to the subject matter thereof). Claim 4 and claims 15-20 are amended herein and no new claims are added.

Although claims 1-20 are indicated as rejected in the Office Action Summary part of the non-final Office Action, Applicant respectfully asserts that the Examiner failed to lodge a discernible rejection against claim 14. Accordingly, Applicant respectfully asserts that claim 14 should be allowed in due course.

### Claim Rejections – 35 USC §112

Claims 4 and 20 are rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant herewith amends claim 4 to rectify the recitation of trademark and/or trade name terms therein thereby rendering the rejection moot.

Likewise Applicant herewith amends claim 20 to correct the dependency thereof (from claim 1 to claim 19) and thus, the latent lack of antecedent basis therein.

### Claim Rejections – 35 USC §102 and §103

Applicant elects to respond to the rejections posed to the claims under the rubric of anticipation and obviousness, as recounted in detail below. Also, as noted above in the introductory portion of this Remarks section of the instant Amendment, Applicant believes that claim 14 *has not been rejected or objected to* and therefore should be indicated as allowable (or allowed) in the next Office Action.

Applicant: Thomas P. Miltich  
Serial No. 10/618,467  
Page 7

Claims 1, 16 and 17 are rejected under 35 USC §102(b) as being anticipated by Bai et al. (U.S. Patent No. 5,568,353).

Claims 1, 7, 11 and 19-20 are rejected under 35 USC §102(e) as being anticipated by Munshi (U.S. Patent No. 6,426,863).

Claims 1, 7 and 10 are rejected under 35 USC §103(a) as being unpatentable over Evans et al. (U.S. Patent No. 5,754,394) in view of Munshi (U.S. Patent No. 6,426,863).

Claims 1-3, 5-6, 8-9 and 13 are rejected under 35 USC §103(a) as being unpatentable over Bernard (U.S. Patent No. 4,323,950) in view of Japanese Publication No. 10-163059.

Applicant, colleagues of Applicant and the undersigned have reviewed the references applied in the above-noted rejections in detail and suggest the following. First of all, none of the references appear to describe, depict or deal with the subject matter claimed in the instant application. Namely, "one or more metallized separators" (from the sole independent claim, claim 1). Applicants notes that claim 21 (now canceled) could be seen as lacking in the precision employed in independent claim regarding the difference to a "metallized separator" and the metallic anode or cathode material(s) applied thereto, but nevertheless, all of the references applied to reject the claims fail to disclose a metallized separator. Second, in general the references appear to recite the proximate disposition of metallic electrode material(s) adjacent to a separator layer. Such an arrangement is admittedly lacking in novelty at this late stage of electrochemical cell innovation. Third - notwithstanding the foregoing - has herewith amended independent claim 1 to more positively recite that the metallized separator allows for "ionic conduction" (e.g., through pores, apertures and the like formed in said metallized separator) while still providing physical separation of differing anode and cathode electrodes. In addition, a number of the references appear to recite or disclose a so-called current collector for an electrochemical cell, which is readily discernible from the claimed invention.

Applicant: Thomas P. Miltich  
Serial No. 10/618,467  
Page 8

For the above and foregoing reasons Applicant respectfully asserts that the cited and applied references fail to disclose in any manner the subject matter claimed herein (at claims 1-20) and thus no single one of the references can conceivably anticipate the claimed invention and no combination of references can render said invention obvious.

Accordingly, Applicant respectfully requests that claims 1-20 are now in condition for allowance and earnestly solicit the Examiner to issue a Notice of Allowance in due course so that the claimed invention may timely pass to issuance as U.S. Letters Patent.

#### CONCLUSION

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

Date: 10 Jan. 05



Paul H. McDowall  
Reg. 34,873  
Telephone: (763) 514-3351  
Customer No. 27581